

Remarks

In the outstanding Official Action, the Examiner:

(1) indicated that Applicants have not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 120 and recommended that Applicants review all of the patent application including 09/661,903 and 08/485,498 in particular;

(2) objected to the specification as failing to provide proper antecedent basis for the claimed subject matter;

(3) rejected claims 23 and 24 under 35 USC 102(e) as being anticipated by Estabrook et al.; and

(4) indicated that claim 25 is allowed.

In response to Item 1 above, Applicants respectfully request reconsideration of the preliminary amendment filed on February 21, 2004.

Applicants have carefully reviewed U.S. Patent Number 5,954,691, issued September 21, 1999, to Frank R. Prosl for HEMODIALYSIS ACCESS APPARATUS and U.S. Patent Number 6,013,058, issued January 11, 2000, to Frank R. Prosl et al. for DEVICE FOR SUBCUTANEOUS ACCESSIBILITY. Applicants submit that the first applications and the above-identified continuation-in-part were filed with at least one common

inventor; the above-identified continuation-in-part application was filed before the patenting of the first applications, and the alleged continuation-in-part application is amended to contain a specific reference to the earlier filed applications. Alternatively, Applicants request further clarification concerning the prior patent applications which are not in compliance for receiving the benefit of an earlier filing date under 35 USC 120.

In response to Item 2 above, please cancel claim 24 without prejudice so as to expedite allowance of the above-identified patent application. Accordingly, the specification is believed to be allowable.

In response to Item 4 above, please cancel claims 23 and 24 without prejudice so as to expedite allowance of the above-identified patent application.

In response to Item 4 above, Applicants have now added new independent claim 31, which includes the limitations of allowed claim 25, base claim 23, and intervening claim 24. Accordingly, claim 31 is believed to be in condition for allowance, and allowance thereof is respectfully requested.

In the event that any fees may be required in this matter, please charge the same to Deposit Account No. 16-0221.

Thank you.

Respectfully submitted,

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